

Agenda Date: December 13, 2012
Item Numbers: A1 and A2

Dockets: UE-121725 and UG-121726
Company: Puget Sound Energy

Staff: Kendra White, Regulatory Analyst

Recommendation

Issue a Complaint and Order suspending the revised tariffs filed in Dockets UE-121725 and UG-121726.

Background

On October 30, 2012, Puget Sound Energy (PSE or company) filed a petition with the Washington Utilities and Transportation Commission (commission) to revise WN U-60, Tariff G, Sheet No. 81-b, for electric service along with a companion petition to revise WN U-2, Sheet No. 101-B, for natural gas service. Both revised tariff sheets have an effective date of December 14, 2012.

Approval of these filings would allow PSE to pass through tax assessments related to prior years to current ratepayers within the taxing jurisdiction. In 2004, the city of Snoqualmie eliminated deductions for bad debts and municipal taxes in their Municipal Code. PSE did not comply with that change to the code. The electric assessment by the city for the period of 2008 through April 2012 is \$196,218. The company proposes to collect the assessment by increasing the municipal tax tariff by 2.43 percent with an effective date of December 14, 2012, until December 13, 2013.

The company also proposes to increase its natural gas municipal tax tariff to recover the gas portion of the tax assessment of \$120,371 or 2.89 percent over a one year period beginning December 14, 2012.¹

As stated in PSE's cover letter, and supported by a letter from Snoqualmie's Financial Officer dated October 22, 2012, the company discovered that they had been improperly paying their taxes since 2004. The assessment is the result of a voluntary settlement between the city and PSE and penalties and interest were waived because the company brought the issue to the city's attention.²

Discussion

Reasonableness

A 2011 court decision involving Puget Sound Energy and the city of Bellingham states that "the fact that PSE passes on to its customers the utility tax imposed upon PSE by the city does not

¹ Docket UE-121725, October 30, 2012, Cover letter to Mr. David Danner, p. 1.

² Docket UE-121725, October 22, 2012, Letter from Rob Orton, City of Snoqualmie Financial Officer, p. 1.

make the tax the obligation of the customers.”³ To the contrary, the pass through of municipal taxes to municipal ratepayers is allowed only when such expenses are deemed reasonable business expenses.

Staff believes that the back taxes may not reasonable for the following reasons:

- The change in taxing practices resulted from straightforward and simple changes to the language of Snoqualmie’s municipal code.
- PSE was legally notified through Snoqualmie’s Paper of Record.⁴
- Snoqualmie’s municipal code is easily accessed on the city’s website.
- The Financial Officer for Snoqualmie stated that all other regulated utilities operating in Snoqualmie (cable, television, and telecommunications) have been properly paying their taxes.
- Entities are responsible for properly paying their taxes without individual notification of changes to the tax code (e.g. federal taxes).
- The company is asking current ratepayers to reimburse the company for prior years’ tax expenses.⁵

Rate Impact

While the citizens of Snoqualmie would have paid the same amount of taxes over that time period, PSE would have billed a different mix of customers. The filing proposes significant rate increases of 2.43 percent for electric customers and 2.98 percent for natural gas customers in Snoqualmie for a year period.

Also, the timely payment of taxes would have allowed for the collection of the taxes over a four year period rather than a one year period; the filing therefore creates an unnecessarily large bill impact. A longer period of recovery for the tax assessment is also unattractive as the “Company shall include its carrying costs at a rate equal to its after tax rate of return” if the “proposed time period is greater than one year.”⁶

Incentives

Disallowing the filed amounts does not change the incentive for PSE to properly pay its taxes as they will reduce their liability for future periods. In fact, PSE will have a greater incentive to

³ Puget Sound Energy, Inc. v City of Bellingham Finance Department, August 29, 2012, Court of Appeals of Washington, Division 1.

⁴ Public Notice #849233, Ordinance No. 983, August 24, 2005, Snoqualmie Valley Record, p. A7 and Public Notice #30777, Ordinance No. 1020, December 19, 2007, Snoqualmie Valley Record, p. 19.

⁵ To reduce the administrative burden of tracking individual bills, the current tariff language allows the company to collect or refund municipal tax assessments to current customers for tax assessments related to prior periods; however, this method of collection creates an inequity for current customers who were not receiving service during those periods. Therefore, the use of the “Tax Adjustment” section of the tariff should only be used when the company could not have reasonably paid its tax burden during the original time period.

⁶ “Timing of Collections or Refunds, WN U-60, Tariff G, Sheet No. 81-d.

properly pay taxes as stockholders will pay for back taxes that could have reasonably been avoided, rather than ratepayers.

Disallowing the tariff changes will give the company an incentive to charge the proper taxes to those customers enjoying the benefit of the service during the time the tax is incurred.

The only change is that PSE may have less of an incentive to contact municipalities when they realize they have not properly paid their taxes. Payment to municipalities is not the concern of the commission, but rather the responsibility of individual municipalities. Further, PSE may retain the incentive to contact the municipalities considering that, in some cases, PSE may be able to avoid interest and penalties through proactively contacting municipalities.

Conclusion

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